Judgment

IN THE COURT OF

R S. L. GOPAL DASS, B A.,
HONY MAGISTRATE 1ST CLASS DELHI

Criminal Case No 120/2 of 192?

Din Dayal Sharma son af Ganga Sahai
Secretary Jangida Brahman
Mahasabha Delhi, Near Civil Hospital
Delhi----Complainant

Versus.

Hanuman Datt Joshi Editor,
Printer and Publisher "The Marwari
Brahman" 6 Mallick Street Lane,
Calcutta Accused

Charge under Section 500 and 501
I P Code

Sentence

Accused to pay a fine of Rs 100 in each head, in default to undergo simple imprisonment for two months for each offence, sentences of imprisonment to run concurrently

Judgment.

Page 1. The prosecution story is that the Complainant is Jangida: by caste and is Secretary of Jangida Brahman Mahasabha which is a registered Corporation for the uplift and welfare of the Jangida Community. The accused, who is an Editor, Printer and Publisher of a weekly Hindi Paper known as Marwari Brahman issued from Calcutta started a regular compaign against the Jangida Brahman Mahasabha particularly and also against the complainant and his Community. The Accused started this compaign somewhere in the beginning of 1926 and his object in doing so was to vilify and abuse the complainant & to make such allegations against the Jangida Brahman Mahasabha Delhi &
Page 3. against theJangida community as would lower the compainant, his community and the Jangida Brahman Mahasabha Delhi of which he is the Secretary in the eyes of others. This paper has a wide circulation and is also received and read at Delhi., It is alleged that *the object of the accused was to secure*

cheap notoriety and sale of his paper. The accused has published in his paper that the complainant and his community are Shudras and Untouchables. The complainant had brought a complaint against the accused for defemation in the Court of Ch. Surat Singh, Magistrate 1st CLASS Delhi which was dismissed. A revision was filed in the court of Mr Dhawan Sessions Judge Delhi who held that the Accused was the Editor, Printer & Publisher of the Paper and the articles complained of, were highly defematory, but dismissed the revision on the ground that the articles complained of were not directed against the complainant's community.

This added a spur to the accused's propaganda and he recommenced his attacks on the complainant and his community with greater malice and deliberation. The articles complained of are three published in the Editions of the "Marwari Brahman" dated 6-6-1928 and 17-9-1928 under the following three headings. Page 5

(a) Shudron ka Brahmano per Dawa Shudras claim as Brahmans.

(b) Khation men Bhishan Khalbali-- Horrible confusion among the carpenters

(c) Jangidon ko Shudratva ka atal certificate—A permanent certificate to the Jangidas that they are Shudras.

The complainant alleges that the above articles are maliciously written in which serious allegations of dishonesty and embezzlement are levelled against him with respect to the moneys recieved by him as Secretary Jangida Brahman Mahasabha & further makes the defamatory allegations against the Mahasabha and his community, and has thus lowered the Manasabha and the community in the eyes of the public by calling them Shudras and Untouchrbles. According to the prosecution the accused has used more violant language in these articles than he had done in the previous ones, because the previous complaint was dismissed and he felt encouraged. The entire tone and drift of these articles is alleged to be defematory.

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Now in his Statement dated 14-4-1929 the accused has admitted that he is Editor, Printer & Publisher of the "Marwari Brahman" Calcutta issues dated 6-6-28&17-9 1928 Further he pleads that he was not present in Calcutta when those issues were published but was in his village Fatehpur. He further contends that these articles contain no imputation against the complainant, Jangida Brahman Maha sabha and the Jangida Community and he further in answer to the querry why this case has been brought against him refers to the previous litigation further says that the complainant by this complaint wants to make Jangida Khaties, Gaur Brahmans

The accused has not in his statement specifically pleaded any of the exceptions narrated in Section 499 I. P Code

The points for the determination are —

1 Whether the Accused is the Editor, Printer and Publisher of the "Marwari Brahman" issues dated 6 6-1928 and 27 9-1928 and as such is he liable to be prosecuted for the

publication of the articles complained of. ?

Page 11 2. Are the articles defematory in nature and were published with intention of harming or with knowledge or reason te believe that they would harm the reputation of the complainant, The Mahasabha, and the Community *concerning whom they are made* ?

3. Is there any extenuating circumstance in favour of the accused ?

Now I would take up the articles Ex. P. A., B. and C, in the two issues one by one and deal with them.

ARTICLE P. A. —Marwari Brahman dated 6--6--1928 page 2 column 1 to 2 "Shudron ka Brahmano per dawa" Accused has given his version of the result of the previous complaint which was filed in the Court of Ch. Surat *Singh* and *which* was dismissed by him. In this article by reading it through one would come to the conclusion that the accused wants the readers to beleive that the complainant's Community is one of the sub-section of Rai Dass Panth (Sect) as would appear from the following words :—

" Unhon ne un ka ASLI Rup Parghat Karna Arambh Kar Dia ant men unhno ne yan tak pata lagaya ke Rai Das ke 12 panthon men unhain sabit kiya." Page 13

The trend of the whole article is that Jangidas are declared by an authorised verdict of the Pandits that they are Shudras & that Jangidas had by the previous litigation made efforts to be declared Brahmans. In this article this is also alleged that the complainant and his Community had intimidated the Editors of the Hindu Sansar, Sri Vankteshwar Samachar etc and that these papers had tendered apologise in order to get out of the difficulty. But the accused stood for the honour of his community and fought the case through. Further in this article there is a gross mis-interpretation of the Judgment of Chaudhri Surat Singh. The Learned Magistrate had dismissed the complaint on the ground that the complainant had not been defamed by those articles and further that it was not proved that the accused was the Editor, Printer and

Publisher of those issues. By this article, one would carry the impression that the complainant & his community are very low--born and untouchable Hindus, who have been scheming to get into the Brahman Community and that the accused by this article leads the
Page 15 Public to believe that the Judgment of Chaudhri Surat Singh has confirmed that view.

Now in continuation of this article on Page 3 Column 5 to 6 there is a heading " Khation men Bhishn Khalbali " marked Ex. B. This article is published as a report of what happened amongst the Jangidas when the order of the dismissal of the Complaint was pronounced. This article says that after the dismissal of the complaint there was a feeling of dis-satisfaction and discontentment amongst the Jangidas imputing that the complainant Dindial and Jai Krishan have squandered Rs. 15000/- and further alleges that they are "Chada Khors" & they have made themselves rich in this way. " *Baiwaqufon se rupia lei kar uukon ne apna* ghar bana liya. "

This is a serious allegation against Dindayal complainant who is Secretary Jangida Brahman Maha Sabha a registered corporation. Allegation of dishonesty and criminal misappropriation is the natural inference from this article which certainly would lower them in the estimation of all those who happened to know him or have dealings with him. Page 19

Article P. C. Marwari Brahman dated 17-9-1928 page 3 column 3 under *the heading "Jangidon ko Shudratva* ka Atal certificate'' This article was published after the order of the Session Judge in revision was pronounced. I may remark that the Sessions Judge had never upheld the decision of the Lower Court. On the contrary he had held that the accused was libale as an Editor, Printer & Publisher but rejected the revision that the articles then complained of were not directed towards the complainant's community. Page 20 He has nowhere held that Jangidas are Shudras In this article there is a deliberate misrepresentation of the contents of the judgment by saying that

the Court had granted a permanent certificate to the Jangidas by holding them to be Shudras. The accused has not explained this deliberate distortion of the judgment. Now I shall deal with the evidence produced by the Prosecution.

Din Daval Complainant examined on 29-11-1928, & 16-1-1929 to 9 2 1929.

He states that he is Secretary of the Jangida Brahman Maha Sabha. which is a registered body and this
Page 23 Maha Sabha was established for the uplift & welfare of the Jangida Brahman community. Accused is the Editor, Printer and Publisher of the Marwari Brahman a Dev Nagri Weekly issued from Calcutta. The paper has circulation in many places including Delhi & is read by Dev Nagri knowing people. For the lst two years the accused has carried on a compaign against the Maha Sabha, himself & his community with intent to vilify them and to secure notoriety and sale of the paper. The accused calls them Shudras and Untouchables inorder that they may be

looked down by the Public. He produces the two issues of the paper that refer to the three articles complained of and also produces their respective translations marked Ex. P. A/1, P B/1 & P C/1 & files a list Ex. P. D/1 of the portions of the articles which are especially defamatory & asserts that by these, he, his community and Mahasabha were disgraced in the eyes of the public, Page 25

On Cross Examination he states that there are 30 Members of the Committee of the Sabha and about 15000 ordinary Members. He denies that the Benares Pandits have ever declared his community to be Shudras. He claims to be Brahman & asserts that they have been calling themselves as such. Shudras is the lowest class in Hindu Society.

P W 2. Madho Kishan Clerk Incharge of Joint Stock Company of the Deputy Commissioner's Office.

He states that Jangida Brahman Mahasabha is a registered body under Act XXI of 1860 & that the complainant is mentioned as Secretary of the Sabha

in the list filed every year in the Office.

P. W. 3. Deputy Singh Clerk Marwari Library Chandni Chowk. Delhi.

He is librarian of the Marwari Library & states that Marwari Brahman is received in Delhi in the Library which is attended by 80 or 90 persons daily sometimes even 130. The Library is a public Library. He has produced 2 copies of the Marwari Brahman
Page 27 paper of the disputed issues marked Ex. P. W. A., and P. W. B.

P. W. 4 Sri Chand a Gaur Brahman aged 33 years.

States that Jangidas have always asserted themselves to be Brahmans and that he has read the disputed articles which mention that Jangidas are descendants of Rai Dass.

In cross examitation the witness states that he knows Jai Krishandas as a Jangida Brahman and that he has known Jangidas as Brahmans since his child hood. He is a Sanatanist Hindu. The system of dining amongst Jangidas

is clean. He has read a book called, Brahman Vansheti Viritam by Parashu Ram Shastri in which Jangidas are mentioned as Brahmans.

P. W. 5. Chattar Sen Vaid of Delhi.

He visits the Marwari Library and had read the articles in question Article P. A. and P. C. were read and became the table talk of the persons then present, in the Library who after reading the articles were discussing Jangidas in disparaging terms. He is a Shastri of Jaipur Sanskrit College & has studied Hindu Dharam Shastras. He disliked of the tone of the articles which is highly mean Ordinarily the word Shudras in ordinary parlance is a word used contemptuously and if a person is called "Shudra" he will feel hurt. Page 29

In cross examination the witness states that he is an Arya Samajist.

Ghasi Ram P. W. 6 Editor of Parik Prakash of Delhi.

States that he had read the articles in question. He knows the complainant,

the Sabha, and the community. In these articles all the three are attacked. The articles are contemptuous & lead one to believe that the complainant and his community are Shudras. They are not Shudras. Even if a Shudra is called a Shudra he will take it ill. In ordinary parlance this word is contemptuous. Apart from the question whether the complainant and his community are Brahmans or not, the tone & trend of these articles is such as to create feelings of hatred & contempt towards them. On page 3 Column 6 of the issues of 6th June 1928, the name Din Dayal refers to complainant. The words underlined in the second column relate to the eomplainant and are defamatory.

In cross examination the witness states that he is a Sanatanist.

P. W. 7 Puran a Jangida Brahman.

He produces Ex. P. C. a lease found amongst *his father's papers* relating to a shop executed on 30-4-1889 In this Jangidas are mentioned as Brahmans.

P W 8 Kundanlal a Gour Brahman

He is teacher of Ramjas Primary School He had gone to the Marwari Library in Chandni Chowk where the purport of the articles in question was explained by those present there who read out these articles that the Jangida Gours who represent themselves to be Brahmans are not Brahmans, but are Shudras Before this he looked upon Jangidas as Brahmans and he felt disgusted with them & left inter-dining. The articles are defamatory

In cross examination the witness states that he is not a believer in caste system Page 33

P W 9 Shanker Dass Cashier D A G Posts and Telegraphs, Delhi

He is a member of the Marwari Library where he read the articles in question The word Shudra in these articles is used in a teasing sense In the article in the issue of the 6th June, 1928 under the heading ' Khation men bhishan Khalbali " the name DinDayal refers to the complainant and the

allegations contained therein are defematory and refer to him.

In cross examination the witness states that he is a Vaish Aggarwal by caste.

P. W. 10 Bhagwan Chand.

He is Assistant Secretary of the Jangida Brahman Mahasaba and says that the complainant is the Honorary Secretary of the Sabha and derives no pecuniary benefit from his position. The complainant is much respected by his community. He corroborates the complainant & adds that many ignorant Members of the Jangida community
Page 35 have stopped subscription as an effect of these articles. The complainant has rendered accounts to the satisfaction of the Mahasabha. He claims that his community is Brahman. He has produced P. W. C/1 (Judgment of the Bikaner State) in which Manak Chand the sister's husband of the witness is referred to and also one Musammat *Chanda who sold a house for Rs. 3200* to Manak Chand and concession was allowed to the parties by the State

as is usually accorded to the Brahmans & by that Judgment Manak Chand who is a Jangida was held to be a Brahman.

In cross examination the witness states that there are about 500 Jangidas living in Delhi

P. W. 11 Jai Krishan.

He is a Jangida Brahman He produces Ex P. D which is a Charba of an inscription on stone affixed in the wall in a Sati Math situated about a mile and a half from Mahrauli This inscription was erected in Sambat 1533 in the days of Sultan Bohlol Lodhi The witness produces Ex P E photo of the building and Ext P F photo of the inscription Ex P D P E & P F were prepared by him Ex P G is the original verdict of the Pandits of Kashi and the other Pandits of India to the effect that Jangidas are Brahmans Ex P G/1 is its Urdu translation of the said verdict Ex P H is a letter dated 24 6 1926 sent by Bharat Dharam Maha Mandal of Benares addressed to the Secretary Jangida Brahman Maha

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Sabha. Ex. P. W. D. is the certified copy of the order of the Sessions Judge.

The complainant has also examined 2 witnesses of Calcutta by Commission. They are :—

1. Rai Girja Shanker, Inspector Police, C. I. D., Calcutta and 2. Lalit Mohan Banerjee, Head Assistant of the Chief Presidency Magistrate, Calcutta.

The former is the Officer in charge of the Press Department, by referring to his confidential records the witness says that the "Marwari Brahman" paper is issused from the Marwari Brahman Press and that the accused

Page 39 was the Printer, Publisher and Editor of the paper in the years 1927 and 1928. The latter produces Ex. 1, 2 and 3 the Declarations filed relating to the paper by the Printer & Publisher of the same.

After recording the above prosecution evidence charge was framed against the accused as regards P. A. B, & P.C. under section 500 & 501 I.P. code

as defamatory to the complainant, the Jangida Brahman Mahasabha Delhi & the Jangida Brahman community. The accused pleads not guilty to the charge and further cross examined the *prosecution witness. From the trend* of cross examination it appears that the accused has persisted in his idea that the complainant and his community are Shudras. And the defence evidence produced by him also relates to the same point.

The accused has produced five witnesses before this Court. 4 have been examined on Commission at Benares, 2 at Calcutta and 3 at Jaipur. Page 41
I shall deal with this evidence in detail when the question will be discussed whether the complainant and his community is Shudra or Brahman. Some of the defence witnesses have given reference of Sanskrit Text & they have also been cross examined at great length & counter authorities have been produced during their cross examinations by the complainant. Although the accused has not pleaded exception specifically by way of justification but from the nature of the defence evidence

I conclude that he takes his stand there. Accused still asserts that Jangidas are Shudras and therefore he was justified in writing what he did. Assuming for arguments sake that such a plea can be taken now, this question shall be considered. Before I do so I would submit that the question whether the complainant and his community is Shudra or Brahman, is not material for the decision of this case. But the main question is whether the complainant, the Jangida Brahman Mahasabha Delhi, and the Jangida Brahman community have been
Page 43 defamed by the accused or not. The accused has made no attempt to show as to what justification he had in making defamatory attacks on the personality of the complainant, on the Jangida Sabha Delhi and on the Jangida Brahman community. He seems to lay a great stress on the point that Jangidas are Shudras.

QUESTION:--Whether the Jangidas are Brahmans or Shudras ?

As I have pointed out already that much stress has been laid by the

defence on this point, I shall briefly deal with this point also :—

The accused has produced the following evidence on this point :—

D. W. 1 Chiranji Lall.

The witnsss only says that there is a temple of Jangida Khaties & that Karao ceremony is prevelant among them. In cross examination the witness states that he does not know to what varan Jangidas belong. The witness is of a low position and gets Rs. 8/- per mensum as pay.

D. W. 2 Chhotey Lall. Page 45

He claims to be of the same brotherhood as the complainant. He says that there are two parties in their community. One party calls themselves as Brahmans and the other does not the complainant belongs to the party who calls themselves Brahmans, but the witness, says that the sacred thread ceremony has been prevelant in their community from times immemorial. and the witness says emphatically that the Jangida community is equal in rank to Brahmans and

says that this community is not Shudras There are 1444 Sashans in the Brotherhood. All the ceremonies of this community are similar to those observed by Gour Brahmans. However the witness does not claim to be a Brahman, because according to him only those communities are Brahmans who accept Dan (charity) and beg about with a lota in their hands. He further says that his feelings as well

Page 47 as the feelings of his brotherhood would be injured if they were called Shudras. He also says that Din Dayal and Jai Krishan are honest men. This witness belongs to the Section who are not in favour of calling themselves as Brahmans, but at the same time he claims the status equal to the Brahmans and detests the idea of being called Shudras. His evidence does not help the defence rather it explodes the theory that Jangidas are Shudras On the contrary he helps the prosecution in so far as that this community is not Shudra and belongs to a higher class.

D. W. 3, Pt. Sita Ram.

He is a learned Brahman of Bhiwani. He has stated that Jangida Khaties belong to Shudar Varan and in support of his assertion he says that the word Jangida comes from the Sanskrit word Jangal which the Sanskrit letter **la** is changed into **da** & hence the word becomes Jangida and was applicable to those Khaties who generally lived in Jungle i. e. forests. He says Shudras are not entitled to wear sacred thread and that the caste is determined by birth. He quotes Ashta-Adhai of Panini in support of his assertion. This quotation which he has given nowhere states that this is applicable to Jangidas and moreover it is a quotation from Grammer which cannot be taken as an authority on Castes. In Cross examination the prosecution has refeared to a passage in Nirukat on page 64 and the translation filed by the prosecution is Ex. P J. which the witness admits to be correct. Page 49

D. W. 4 P. Mukh Ram.

This witness claims to be a Sanskrit Scholar and to have passed the Acharya Examintion of Benares in Viyakaran i. e. Grammer. He opines that Jangida Khaties are Varan Shanker Shudras. As an authority he quotes Shabdarth Chinta Mani by Raj Pandit Sukha Nand of Udaipur as an authority. This is a Dictionary of Sanskrit words and he points to the word Twashta. Here different meanings of Twashta are given and at the end of this passage Khaties and Tarkhans are mentioned as Varan
Page 51 Shankar. He gives another quotation from Brahma Vai Varat Puran which says that from the union of Vishwa Karma with a Shudra women, nine sons were born and Sutradhar was one of them. This witness translates Sutrdhar as a Carpenter and the prosecution challenges this translation. He has failed to show that the meaning of Sutradhar is Carpenter. He has failed to show from another Dictionary that the meaning of Sutradhar is Carpenter. On the contrary in

a Dictionary the word Sutradhar is shown as equivalent to an Acrobite vide Shabdarth Chintamani referred by the witness This witness also refers to Ex D W A the printed copy of Ex P G He also produces a paper known as Brahman Mahasammelan and says that in issue dated 4 2 1929 Ex D W B it is given that Jangidas are Shudras The witness also refers to a Sanskrit quotation from a book known as Shakul Yajurvaid Kanay Sanghita in which it is given that a spoon made of wood is purified because it is made by a low caste This does not mean that Jangidas are low caste people Further on the witness refers to Vyas Sumarti Chapter 12 verse 11 which according to him means that a caste known as Vardhaki and Banik and Kayasth including other castes mentioned therein are Shudras & are equivalent to Chandals. He translates Verdhaki as a Carpenter and Banik as a painter In cross examination the witness says that the word Banik means a broker When the witness was referred to a book

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known as Shabdarth Parijat a Dictionary of words he admits that the word Banik means a Vaish The defence witness Girdhar Sharma examined at Jaipur stated that the word Banik is given as Vaish in Amar Kosh It is given in the book that if any one of the castes takes cow flesh
Page 55 he loses the caste and becomes untouchable I cannot accept this as an authority for saying that Jangidas are Shudras when in this book it is also mentioned that Vaish and Kayasth are also Shudras, and untouchables Admittedly Vaish community is one of the three primary castes and Kayasths are also looked upon as one of the superior castes

In further cross examination the witness admits that he does not know various castes amongst Khaties and that he has seen in no book written that Jangida Khaties are Shudras He admits that he has very often been coming to the Court with the accused when the cases by the Complainant against the accused were pending The prosecution has produced Ex P K an

issue of the Marwari Brahman dated 1-10-28 and on page 3 thereof the picture of the witness appears and in a passage marked Ex P. L (the translation thereof) it appears that the witness was helping the accused in the previous case by the complainant against him and the witness was highly eulogised for the services he had rendered to the accused The witness admits that the castes of Brahmans originated after the name of the country originally inhabited by them The witness also admits that the country surrounding Thanesar (Distt Karnal) was called Jangaldesh But the witness does not admit that the Brahmans of the Jangladesh were called Jangidas which is the theory of the Prosecution He does not know whether any particular name was given to the Brahmans living in the Jangaldesh The witness says that if a Brahman works as a Carpenter he will be called a Taksha The prosecution in cross examination referred to a passage in Oshan Sumarti Shaloka 5 Chapter 1 saying that when a Brahman marries a women of lower caste the offspring will follow the caste of the

father. This is how the translation of the verse appears in the book, but the witness does not admit it to be correct, and says in olden days Brahmans were permitted to marry a women of a lower caste and Parashar who was a Brahman was born of a Supaki girl by a Brahman father. Supaki being a very low caste amongst Bhils. The evidence of this witness proves nothing beyond the fact that in his personal opinion Jangidas are Shudras. witness is clearly the supporter of the accused I therefore find it difficult to attach
Page 59 importance to his evidence.

D. W. 5 Akhilanand.

He also opines that Jannidas are Shudras and says that he was present in the meeting of the All India Brahman Mahasabha held at Benares in the month of Kartik 1928 where a resolution was passed to that effect. The witness only says that he can produce authorities if required to support his allegations. But in the cross examination he states that in none of the Sanskrit books Jangida is mentioned as a Shudra caste. He

admits that he was formerly a worker in the Arya Samaj for a number of years and then he left the Samaj and became Sanatanist. When referred to "Marwari Brahman" of 12-9-1927 Ex. P. R the witness admits that he had become an Arya Samajist & remained in that Samaj on account of greed and monetary gain. He admits having gone to Narnaul and made a speech there but on being shown Jangida Samachar Paper of May 1909 in which *his speech was reproduced he does not* admit the same to be correct. In that meeting he had addressed the Jangidas present there as Brahmans The evidence of this witness is deserving of no credit As he is a person of fiscal faith who would change sides for money. He produces no authority in support of his allegations

Four Witnesses were examined by the defence at Benares They are as follows .— Page 61

1. Laxman Shastri.

This witness has opined that Jangidas do Carpenter work & carpenter is known in Shastras as Taksha and

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Vardhaki & they are known as Shudras. The Jangidas are therefore Shudras. He has referred to Wallam Bhatti Mitakashra but he has not produced the book referred to in the Court nor does he remember the Shaloka.

On being cross examined he admits the existence of the Ex. P. G. the Vivastha Paper by some Pandits of Kashi and other places, to the effect that Jangidas are Brahmans. Further he says that the profession of Carpenter is a forbidden one for a Brahman. On the other hand Anant Krishan Shastri the Defence witness examined in Calcutta states that the calling of a Carpenter is valid one for the twice born classes including Brahmans. This witness does not know if any part of India was called a Jangaldesh while Mukh Ram & other defence witnesses have admitted it. Further he admits that in Shiv Puran it is stated that out

Page 63 of the five mouths of Shiva five Brahmans were born. Twashta and Mayai were two of them. Mayai was a Carpenter.

2. Baman Charan Bhattacharya, Shastri.

This witness too deposes that Jangidas are Shudras. He says that about 10 year ago Parashu Ram Shastri whom the witness knew obtained a verdict from the Pandits of Benares to the effect that Jangidas are Brahmans and that the witness had signed it, as it was also singned by Pandit Panchanan Tarak Ratan Mahamahopodhaya & Pandit Jadeshwar Panchratan and Sobrahman Shastri also signed the same. This witness had affixed his-siginatures and so had been done by others. The witness had signed it as Parashuram Shastri had made them believe that Jangidas are Brahmans. The witness further relates the story as to how Ram Partap came to Benares & how he changed his opinion. The reasons given by the witness are that the late Diwan of Jaipur's son wrote from Jaipur that Jangida Khaties are not known as Brahmans & Girdhar Sharma also wrote to the same effect & a Mahzar Nama from Jaipur showed that widow marriage was prevalent in Page 65

this community. These were the reasons for changing his opinion. None of the three documents are produced by him or any other witness. The witness refers to Amar Kosh as an authority on the point. Though the witness was asked to refer to any work on the Dharam Shastra. Yet he referred to Brahmavivarat Puran but he does not remember the Shaloka.

In cross examination the witness admits that he signed the Vivastha Ex. P. G. after he had read it, but he does not know as to what the occasion was for granting the second Vivastha. The witness does not know the different castes of Khaties. When the witness is asked whether other castes of Brahmans are mentioned in Vedas and Upnishads he pleads inablility to answer the same as he has not read them, but he is definite in saying that Jangidas are no-where mentioned as Shudras in any of the text books. And that Khaties are mentioned as Shudras. This witness also says that Taksha does not mean a Carpenter by profession although

the other defence witnesses have admitted it. He admits that the names of the different sub castes of Gour Brahmans are derived from the places where they lived. This witness when confronted with the quotations from Ling Puran Shiva Puran and Bhavashya Puran, took shelter by saying that the said authorities are not reliable on account of their being adulterated in as much as they exploded the theory of the witness

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3 P Devki Nandan Shastri

The witness says that Jangidas are known as Khaties in Rajputana and their Varan is Shudras at an ordinary meeting of the Parishad a Vivastha was given three years ago to the effect that Jangidas are Shudras In answer to the question that he must support his theory by reference to the Dharam Shastras he refers to Sikand Puran which he does not produce and says there are other authorities too which he does not remember He like other defence witnesse refers to Amar Kosh which is a Dictionary He gives a meaning to the word Rathkar

different from the one given to it by Baman Charan. He admits that some Pandits of Benares had previously given Ex. P. G. declaring Jangidas to be Brahmans. He refers to a number of books but he says that nowhere it is specifically mentioned that Jangidas are Shudras. He admits that in Atharva Veda there is a mention of Angra Brahmans. This witness when confronted with Bhavanshaya Puran which says that Parashar though born of a shupaki women was still a Brahman, cannot explain it.

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4. P. Durga Datta Shastri-

The evidence of this witness is similar to that of P. Devki Nandan. he deposes there is no direct authority that Jangidas are Shudras but he says that as Jangidas are Khaties and Khaties are Shudras therefore he concludes that Jangidas are also Shudras. This witness has not referred to a single authority on the subject and says that he is still a student.

These are 4 witnesses of Benares. The other Pandits af Benares who had

signed the earlier Vivastha Ex. P. G. have not been produced. The second Vivastha has not been produced though referred to by all of them Even a copy thereof has not been produced, nor has any attempt been made by the accused to get that Vivastha produced. The reasons given by Baman Charan for changing his opinion are not convincing at all All these witnesses who are learned Pandits of Benares have failed to substantiate their statements by reference to books that Jangidas are Shudras Page 71

The two witnesses examined by Commission in Calcutta are —

1 P Ananat Krishan Shastri

He deposes that Jangidas are Shudras & refers to Yajayavalak as an authority and says that Rathkar and Taksha which means Khati are mentioned as Varan Shankars This witness refers to a resolution of protest passed during the pendency of this case saying that some castes were aspiring to rise higher which was depricated and Jangidas are mentined amongs them.

In cross examination he admits that he had never made a special study of the castes and their origin, but the witness says that Jangida is a synonym of Khati. This seems to be his reason for saying that Jangidas are Shudras. This witness admits that Brahman Utpati Martand is a book reliable and authoritative The witness further admits that Mayai one of the five Brahmans born from Shiva was a Carpenter and that according to Purva Mimansa the three twice born castes can adopt the profession of a carpenter. Further he is definite and admits that if any of the twice born classes takes to the wholesale calling of a carpenter it would not lose its caste thereby. The witnesses further deposes that Jati-Bhaskar by Jowala Pershad Misra is a book of authority and that in that book Adam Parbati Brahmans are mentioned to permit widow marriage.

2. P. Kidar Nath Joshi.

Page 75 This witness too deposes that Jangidas are Carpenter & their Varan

is Shudras. But the witness deposes that he cannot cite any authority for his opinion & that he has heard others saying so He further deposes that for about 20 years Jangidas have started taking sacred thread and many Brahmans have given them sacred threads This witness deposes that he has read Saraswat Vyakarn But there is no such work in existence

Three witnesses have been examined by Commission at Jaipur by the defence They are as follows —

1· P Chhotey Lall

This witness deposes that Jangida Khaties are Shudras and in suppoit of *his teatement he gives the following* 13 authorities —

(a) Census repopt of Jaipur State of the year 1903 Page 200 This report only mentions that Khaties exist in Rajputana & they are enumerated amongst *castes where Shudras are* mentioned But it makes no mention of Jangidas

Village menials. Jangidas are nowhere mentioned.

(f) Page 427 Volume 12 of 1911 of Census of India Punjab Part I mentions that Jangidas returned themselves as Brahmans.

(g) Census Report 1895 Page 469. The witness refers to a passage under the heading Jangida Khaties. No passage has been quoted nor has the book been produced. But the witness refers to the heading only & concludes that Jangidas are Khaties and not Brahmans.

(h) Brahmavai Varat Puran Chapter 10 Shaloka 20 & 21. It only means that Sutaradhars are Varan Shanker. As already noted above Sutaradhar means an acrobite.

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(b) Rajputana Gazette of 1879 Bharatpur Khaties are mentioned Shudras No mention is made of Jangidas

(c) Tribes and castes of N W P & Oudh 1896 Volume1- It makes mention of a caste as Janghara But no such caste as Jangidas is mentioned The witness is of opinion that Janghara and Jangida are the same However this only mentions that Janghara is a sub-caste of Barhai and some Brahmans woud eat Pacca food cooked by carpenters

(d) Volume 22 of the Census of India 1911 Report page 249 only shows that Khaties of Jaipur returned themselves as Jangida Brahmans

(e) Punjab castes printed in 1926 mentions Khaties as

(i) Amar Kosh dictionary page 100 under the head Shudras, Taksha, Vardhaki Twashta and Kashttat are meantioned, this point has already been discussed above

(j) Again refers back to (a) & mentions that Jangida are not given in the list of Brahman castes

(k) Jangida Utpati page 6— mentions that by some class of people carpenter caste is mentioned as Shudra & Varan Shanker. In the cross examination the witness admits that this book concludes and holds out that Jangidas are Brahmans

(l) Jati Bhaskrr by Jowala Pershad Misra-Page 162- Critisim of the theory that Jangida Khaties are Brahmans In cross examination the witness

admits that on page 6 of the same book the author has left the Khati Taksha caste as one under consideration as to which Varan they belong. The witness also admits that on page 89 of the same book Taksha is mentioned as a Panchal Brahman. This reference goes against the defence.

(m) Page 7 of Vishwa Kosh a Dictionary published in 1923 at Benares. The witnesses says that in that Dictionary Jangida is mentioned as a sub-caste of Khaties.

All these references do not help the defence at all In the first place the exact quotations are not produced. Neither the books have been produced nor their translations or copies have been placed on the file. Morever these quotations only show that Khaties in some places are mentioned as Shudras and Jangidas have on more than two Page 81

occasions returned themselves as Brahmans. This witness further refers to a meeting in Behar held in 1926 where he alleges that Khaties were declared to be Shudras. No printed report of any such meeting is produced. Moreover this meeting seems to be after the criminal litigation between the parties had started.

In cross examination the witness states that he is a retired Station Master with no Sankrit qualifications but still claims that his occupation is to research castes and creeds. Two books have been produced by the prosecution and Urdu translation of a number of pages has been produced & exhibited. The first of these books was published by the witness in the year 1914 under the name of Jati Anivaishan. The transliteration of pages 226 & 227 is marked Ex. J. P. 1. Ex. J. P. 2 is the correct transliteration of pages 173 to 176 of the second book named Brahman
Page 83 Nirnay printed in 1916 written by the witness Ex. J. P. 5 is correct transliteration of pages 425&426 of the second book & Ex. J. P. 3 is the correct tranliteration of pages 425 to 425 of the second

book—All these references lead one to the irresistible conclusion that this witnness has in this book distinctly and clearly *after a great deal of discussion* and arguments mentioned that Jangida especially and all Khaties and Artisans classes generally are Brahmans highly born and highly placed ones, and the witness has even gone to the extent of saying that he has known from his childhood that Jangidas have from times immemorial been wearing sacred thread When called up to explain the reason for this change in the attitude, the witness says that he had some years later added a correction slip Ex, J P, 4 to the editions of his books that these pages were cancelled by him It is remarkable that no reason is given by the witness in Ex J P 4 for such a step by him He explains by saying that previously he had not made thorough investigation and had written whatever was suggested by Khaties The Exhibits I have already referred to are transliteration of the pages of his books They seem to be well thought of and well studied discussion Page 85

in as much as there are references to authorities including 20 judgments of the Law Courts and numerous verdicts of the various Pandits. I cannot believe the explanation given by the witness. The prosecution has produced many letters written by the witness suggesting the motive which led to this change in the opinion of the witness. These letters have been admitted by the witness to be his own and Exht. J. P. 7, J. P. 8 & J. P. 9 clearly show that the witness wanted to obtain money from the complainant and the Sabha for selling his opinion in their favour and for the prosecution of his case at Ajmere in which he was an accused. The help was refused & that is why the witness
Page 87 has turned round & changed his opinion. This witness had been convicted in a criminal case similar to the present one under section 500 I. P. code Being offeneded with the complainant and the Maha Sabha he has enlisted his sympathies with the accused in this case. The Judgment of the Ajmer case shows also that the witness is a fiscal

minded person and for writing something rash he was convicted and sentenced vide Ex. J P 6 I therefore feel much hesitation in giving credence to his evidence.

2. Ram Pertab

In examination--in--chief this witness relates the story of the struggle between the Villagers and Khaties of Jaipur State which existed about 3 years ago Further it is clear that he had gone to Benares and obtained a Vivastha to the effect that Khaties are Shudras He claims to be of the brotherhood of the complainant and to be a Shudra This Vivastha according to him was given by the Bharat Dharam Maha Mandal and he says that the original is still there in the Sanatan Dharam Maha Mandal Office A commission was issued to the witnesses at Benares and no attempt has been made to get the original produced, nor any of the witnesses or Secretary of that Mandal has come forward to prove its existence or preparation He has produced a circular letter Ex J P A as an original

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letter issued by the Villagers, but in cross examination the witness admits that it is nothing but a copy of a copy the witness does not know who made it. It is not admissible in evidence. As for the incidence which took place at Jaipur some State Official would have been the best witness. This witness admits to have deen ex--communicated by the complainant and the Jangida Brahman Maha Sabha and some section of the people who call themselves as Brahmans. He admits to have written Exts. J. P. B. J. P. C. and J. P. D the Urdu translations of which are marked as J. P. B. I, and etc The photographic reproductions were returned to the witness. The Exht J.P. E. 1 etc are their Urdu transliteration, all these documents clearly prove that the witness was ex-communicated by the Jangida Brahman Maha Sabha
Page 83 and he tendered many apologies and he prayed the complainant and the Maha Sabha to be re-admitted into the fold and he thus admitted his mistake and asserted that he has taken the sacred thread again, but he was refused

re-admission into his community. This enraged the witness and explains the reason why this single individual out of the whole Jangida Community has come forward with the assertion that Jangidas are Shudras and his reasoning for saying so is that Vishwa Karma was a Khati and that Khaties are descendants of Vishwa Karma and that Jangida claims to be descendants of Vishwa Karma. The witness therefore comes to the conclusion that Jangida Khaties are not Brahmans. Many defence witnesses have admitted that Vishwa Karma was a Brahman. This argument is fallacious besides this the witness admits the existence of the Ex.P.G. Vivastha Pattar declaring that Jangidas are Brahmans. This witness also admits that a caste fellow of his was a Pujari in a Temple. His statement is self contradictory in many points. From his statement it appears that his attitude was very defiant and malignant His statement is therefore deserving of no credit. Page 93

3. P. Girdhar Sharma.

He claims to have knowledge of

Hindu Caste system. For the first time this witness states that Jangida is not in reality a caste. No other witness has so far made this statement However in the 2nd sentence he says that Jangida is a branch of Khaties and his line of reasoning is that as Jangidas are Khaties and Khaties are reckoned as Shudras, the Jangidas, too, are therefore Shudras, he makes reference to a vivastha given in Jaipur but the vivastha has not been produced by any of the other witnesses or by this witness himself. In cross examination this witness admits that the vivastha was given at the request of the accused. No reliance can be placed on such a vivastha that was obtained in this way and during the pendency of the case. In support of his views the witness has given the follwing five authorities :—

(a) Amarkosh Dictionary the same as given by Pandit Chhotey Lall already discussed above.

(b) Aushan Sumarti Shaloka 5 Chapter 4-,Rathkar is born

of a union between Brahman woman and a Kshatraya man. This authority is meaningless as it refers to a caste known as Rathkar & it does not mean that Jangidas are Shudras or Varanshankar. Page 95

(c) Yajaavlak Sumarti Chapter 1, Shaloka 95 where a Rathkar is described as a child born of a union between a Maheesh man and a Karni woman This is a version quite different from that given in (b) It only means that Sumarties do'nt agree with each other & therefore no reliance can be placed upon their versions

(d) Vyas Sumarti Chapter 1, Shaloka 11—This authority has been quoted by Mukh Ram D W 4 and I have already discussed it above

(e) Brahma Vaynarat Puran Chapter 10 Shaloka 19 & 21-

This authority has been quoted by P. Chhotey Lall & other learned Pandits which I have discussed above. The word Sutradhar has been translated as Carpenter but in no Dictionary this word

Page 97 Sutradhar has been mentioned as meaning a Carpenter.

(f) Viyakaran Ashtadhayi Chapter 2, (10)—From the commentary relating to the Sutras the witness points out two words quoted as an exmple Taksha Yaskaram. These two words indicate to the witness that Carpenter, and Iron smith are Shudras. I fail to understand how this meaning is given to these two words. This witness admits that at least for the last 20 years Jangidas have begun to call themselves as Brahmans, and wear the sacred thread. Further on this witness deposes that

he does not know what decision was arrived at in Jaipur about the dispute as to the varan of Jangidas vide answer to the question 8 of the interrogatories For the first time this witness gives a very strange meaning to the word Jangida as he says in answer to question No. 16 that the word Jangida means a Bard (Poet) Bards admittedly belong to high class and are reckoned as Brahmans, though not so high as the learned Pandits

In cross examination the witness admits that he has seen the word Jangida written in Vedas and admits that in Atharva Veda page 372 Angrasi Jangida is mentioned He further states that the names of the Sub Castes among Brahmans are taken from the place of their origin i e Saraswat Brahman and he also admits that in Mahabharta there is mention of a province known as Jangal Desh and

when referred to Banparab Chapter 23 Shaloka 5 the words Kuru--Jangila--Nam suggests Brahmans living in Jangaldesh. This witness has admitted that in Amarkosh the word Banik means a Vaish caste which is mentioned in the list of Shudras in Vyas Sumarti, but he lamely adds that the word Vaish in this particular Shaloka stands for Banjara. The witness failed to produce any Dictionary where this
Page 101 word Banik is translated as Banjara while Pandit Mukh Ram D. W. 4 has translated this word Banik as Painter. I fail to see how one word which is the name of a caste can apply to two different castes. I cannot accept that the word Banik which is equivalent to the word Banya means anything else than a Vaish.

To my mind this Shaloka may be an interpretation after all. This witness has admitted that in olden days Brahmans were permitted to marry a woman of the two lower twice born castes, but the witness asserts that the offspring would be Varan Shanker. This does not stand to reason that a

thing permitted by the Shastras and practised by Brahmans of yore, should reasult in low born children. It is the universal law that a child is always governed by the law governing the father and therefore such offspring should be Brahman. In support of this view the prosecution has referred to many instances including Vyas and Parashar and in Bhavishya Puran both of them are mentioned to be born of a low caste women by a Brahman father & yet they were regarded as Brahmans. Page
The witness when confronted with this lamely asserts that this particular shaloka which mentions this fact is an interpolation in the said Puran. If I accept this view why should I not presume that all the other Shalokas too quoted from the Sumarties by the witness are interpolation This witness has admitted that he has not made a special study of the origin of different castes and he says that on reading the above Sumarties which he has quoted he came to the conclusion that Jangidas are Shudras and he signed the vivastha at Jaipur. Value of this vivastha can also be judged by this assertion.

Further this witness admitted the authorities of Shiv Puran and Ling Puran where Twashta is mentioned as one of the five castes of Panchal Brahman

In the end the witness admits distinctly "I cannot quote any direct statements out of the religious books that Jangidas are Shudras."

This closes the defence evidence.

From the authorities quoted by the prosecution in the cross examination of the defence witnesses I come to the conclusion as follows :—

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Jangidas claim to be descendants of Vishwakarma who was the daughter's son of Rishi Aangira and both of them are accepted even by the defence witnesses as Brahmans, and even if as the defence has suggested that Khaties were born of a union between Vishwa Karma and a woman of another caste they are Brahmans for the same reason as in olden days such a union was permissible amongst Brahmans and such a child would be a

Brahman all the same notwithstanding the lower caste of the mother, just as in the case of Parashar and Vyas. Further in Shive Puran & Ling Puran it is mentioned that Twashta which according to many defence witnesses is the name of Khati is one of the five principal castes of Panchal Brahmans. Page 107

Further in Maha Bharat there is a province which is called as Jangaldesh and many defence witnesses have admitted that the different names of the sub-castes among Brahmans are given on account of their place of origin, and so it stands to reason that the Brahmans of the Jangaldesh who had their origin there would be called Jangal Brahmans. This word Jangal according to the deeply revered Pandit Sitaram of Bhiwani can be transformed into the word Jangid, the letter **la** being changed into the letter **da**. This view has been adopted by Pt. Parshu Ram Shastri in his book named Brahman Vansheti Viritam. Further the Ex. P.G. which bears the signatures of about 46 learned Pandits of India

that Jangidas are Brahmans Ex. P. G. is attacked by the defence as one having been obtained by fraud. No
Page 109 such fraud has been established by the defence. The only assertion made by Bama Charan Bhattacharya defence witness, examinned at Benares who is one of the signatories is that he had signed it because other Pandits had signed it without applying his mind to the question, but after having read it. This does not mean that it was obtained by fraud. Not a single signatory has come forward although 8 of them belong to Benares where Commission was taken out to assert that fraud was practised upon any of them. Moreover this vivastha is further supported by another vivastha of a body of Pandits at Benares known as Bharat Dharam Mahamandal marked as Ex. P. H. Ex. P. D. is a mechanical copy of the inscription, as old as 450 years of the time of Bahlol Lodhi describes Jangida as a superior caste and refers to Jangida Vansh where in the custom of **Sati** was prevalent. The Photograph of this inscription is

marked as Ex. P. F and of the tomb marked Ex P. E goes to prove that Jangida is certainly a superior caste and is one of the three twice born classes, as the custom of Sati was not prevalent amongst Shudras Exts.P.W.C and P.W. E are old documents about 40 years, wherein Jangida is described as a Brahman. This shows that so far back as 40 years Jangidas claimed to be Brahmans. There is also a judgment of Bikaner State Marked Ex. P. W. C/1 in which it has been held that it is on account of their calling that some Jangidas are called Khaties but they are Brahmans and the same privilege was accorded to Jangidas which is usually accorded to a Brahman.

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In the translation of Atharva Veda Mr. T. H. Griffiths who has been Principal of the Benares University & admittedly a great scholar of Sanskrit who has translated all the four Vedas has translated the Phrase "Angrasi Jangida" which occured in Atharva Veda as "Angira thou art Jangida",. This clearly shows that Jangida was another name of Angira Rishi. And it

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is highly probable that the descendants of Angira Rishi assumed their other name as Jangida.

I therefore believe that Jangida is a Brahman caste which may have fallen into obvillion for sometime and forgotten and on account of their profession people may have begun to call them Khaties. The word Khati only suggests the name of the calling and not of the caste.

As I have already pointed out above that the question whether Jangidas are Brahmans or Shudras is not material for the decision of this case. The question is whether there was any justification for the accused to make such assertions as are made by him in his articles? It was for the accused to prove that this assertion was in any way for the public good, or for the good of other Brahmans. There is no custom of inter-marriage between the sub castes of Brahmans. The Brahmans do not take food cooked by another Brahman if it is Kachhi. And the defence witnesses admit that they do take Pacci food cooked by

Jangidas. Then where is the justification for publishing that Jangidas are Shudras and not Brahmans. In what way would the Brahman community benefit by the publication of such an assertion which has been published many times by the accused, because he bears malice and he wanted to lower this community and the complainant and the Jangida Maha Sabha Delhi in the eyes of others. The word Shudra in these articles is used in a contemptuous manner However there is no justification whatsoever for publishing such a statement which means that the Jangidas belong to the twelve Panth of Rai Dass that is to say Jangidas is a sub caste of Chamars who are untouchables. The accused has no justification whatsoever in publishing that Din Dayal the complainant who is Honorary Secretary of Jangida Brahman Maha Sabha Delhi a registered coroporation is dishonest and has considerably mis-appropriated the fund of the Mahasabha and as it appears from the words "Apna Ghar Bana Liya". The accused has failed to explain this and there is no other motive but to satisfy his grudge

against the complainant by bringing a charge of dis-honsety which has not been substantiated & has not produced even a single witness to that effect.

Even in his defence the accused has persisted in his statement that Jangidas are Shudras, & he has led all
Page 119 the defence evidence solely on this point, which shows how keenly he has been fighting on this question. What motive he had in pressing this assertion except that he wants to humiliate and lower the Jangida community in the eyes of the public. Even if Jangidas are Shudras, it is certainly not an untouchable community according to the defence witnesses. This is an irresistible conclusion that the intention of the accused in publishing the ariicles was to lower the complainant, his community & the Jangida Brahman Mahasabha of which the complainant is Honorary Secretary in the eyes of the public and to humiliate them.

The articles P. A & B published in the " Marwari Brahman " issues of 6th June 1928 and P. C. published in

the issue of 17th September 1928 are in question. The accused states in his examination of 12th April 1929 that he was not in Calcutta at the time of the publication of Ext. P. A. and B namely on 6th June 1928. But the accused admits that P C. was written by him. The accused is admittedly Editor, Printer and publisher of the Marwari Brahman Calcutta

Under the provisions of the Press and Registeration Act No. 25 of 1867 the accused is liable for the defamation of the complainant Din Dayal the Jangida Brahman Mahasabha Delhi & the Jangida Community out lined in the issues of 6th June 1928 and 17th September 1928 for the publication of each of (a) Ext P A and B in the issues of 6th June 1928 and for the publication of (b) Ext P. C in the issue of 17th September 1928, the punishment of fine of Rs 100/- would suffice The accused is 20 years of age

For the above reasons I find the accused guilty under section 500 and *501 I P. Code as follows* --

(a) For the publication of defamatory articles P A and B in the

issue of 6th June 1928, and,

(b) for the publication of the article P. C. in the issue of 17th September 1928 on account of his defaming Din Dayal complainant, Honorary Secretary Jangida Brahman Mahasabha Delhi, the Jangida Brahman Mahasabha Delhi itself, and the Jangida Brahman community for which charge has been framed against him and sentence him under each of the above heads to a fine of Rs 100/-. In default the accused shall undergo simple imprisonment for two months for each of the above offences The sentences of imprisonment to run concurrently The whole of the fine if recovered to be paid as compensation to the complainant.

Pronounced to the Parties.

(Sd) **Gopal Dass**
HONY. MAGISTRATE
Delhi 1st Class.
12th February 1930